

PATENT COOPERATION TREATY

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MAY 31 2005

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

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NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

ENTERED

(PCT Rule 71.1)

JUN - 1 2005

Date of Mailing
(day/month/year)

26 MAY 2005

Applicant's or agent's file reference

3501.P692PCT

IMPORTANT NOTIFICATION

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US03/41535

30 December 2003 (30.12.2003)

31 December 2002 (31.12.2002)

Applicant

EBAY, INC.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/US
Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
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Form PCT/IPEA/416 (July 1992)

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PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 3801 P098PCT		FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US03/41535	International filing date (day/month/year) 30 December 2003 (30.12.2003)	Priority date (day/month/year) 31 December 2002 (31.12.2002)	
International Patent Classification (IPC) or national classification and IPC IPC(7): G06 17/60 and US Cl.: 705/27			
Applicant EBAY, INC.			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 6.07 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u> </u> sheets.</p> <p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 			
Date of submission of the demand 10 June 2004 (10.06.2004)		Date of completion of this report 12 May 2005 (12.05.2005)	
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703)305-3236		Authorized officer <i>V. Wilkerson</i> Vincent Milin Telephone No. 703-306-5486	

Form PCT/IPEA/409 (cover sheet)(July 1998)

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed.
- ☒ the description:
pages 1-25 as originally filed
pages NONE filed with the demand
pages NONE filed with the letter of _____
- ☒ the claims:
pages 26-58 as originally filed
pages NONE as amended (together with any statement) under Article 19
pages NONE filed with the demand
pages NONE filed with the letter of _____
- ☒ the drawings:
pages 1-20 as originally filed
pages NONE filed with the demand
pages NONE filed with the letter of _____
- ☐ the sequence listing part of the description:
pages NONE as originally filed
pages NONE filed with the demand
pages NONE filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments. (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/US03/41535

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims 1-189	YES
	Claims NONE	NO
Inventive Step (IS)	Claims 1-189	YES
	Claims NONE	NO
Industrial Applicability (IA)	Claims 1-189	YES
	Claims NONE	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-189 meet the criteria set out in PCT Article 33(2)-(3), because the prior art Odom et al (US Patent 6,058,379 A) does not teach or fairly suggest the step of automating the decisions of a seller using a processor.

With reference to the independent claims Odom teaches a system, method, and machine readable medium for network-based commerce including a processor coupled to a memory through a bus; and a fixed price-setting process controlled by a seller to adjust a fixed price offer associated with a listing for an item during a network-based auction price-setting process including designating a buyer, associated with a maximum bid for the listing, as a winner of the listing upon adjusting the fixed price offer, wherein the maximum bid is greater than the adjusted fixed price offer (See Odom Abstract, Column 3 lines 21-45, Column 5 lines 25-35 and Column 6 lines 30-55). Fixed price or reserve price is old and well known in the auction art and an acceptable bid is interpreted to include the condition wherein the maximum bid is greater than the adjusted fixed price offer. However Odom fails to teach or fairly suggest the step of automating the decisions of a seller using a processor.

The arguments of the Applicants in response to the written opinion (Form 408) have been considered and are found to be persuasive.

NEW CITATIONS

US 6,430,545 B1 (HONARVAR et al) August 6, 2002, see entire document